

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

THOMAS L. UMPHFREY,)	
)	
Petitioner,)	
)	
v.)	Case No. 4:09 CV 1666 RWS
)	
MARCUS HARDY and)	
CHRIS KOSTER,)	
)	
Respondents.)	

MEMORANDUM AND ORDER

This matter is before me on the petition for writ of habeas corpus filed by Petitioner Thomas L. Umphrey. I referred this matter to United States Magistrate Judge Lewis M. Blanton for a report and recommendation on all dispositive matters pursuant to 28 U.S.C. § 636(b). On January 16, 2013, Judge Blanton filed his recommendation that Umphrey's habeas petition should be denied.

Objections to Judge Blanton's Report and Recommendation were due to be filed by January 30, 2013. As of the date of this order, Umphrey has not filed any objection to the Report and Recommendation. After careful consideration, I will adopt and sustain the thorough reasoning of Judge Blanton's report and I will deny Umphrey's habeas petition for the reasons stated in the Report and Recommendation dated January 16, 2013.

I have also considered whether to issue a certificate of appealability. To grant a certificate of appealability, the Court must find a substantial showing of the denial of a federal constitutional right. See Tiedeman v. Benson, 122 F.3d 518, 522 (8th Cir. 1997). A substantial showing is a showing that issues are debatable among reasonable jurists, a court could resolve

the issues differently, or the issues deserve further proceedings. Cox v. Norris, 133 F.3d 565, 569 (8th Cir. 1997) (citing Flieger v. Delo, 16 F.3d 878, 882-83 (8th Cir. 1994)). Because petitioner has not made such a showing in this case, I will not issue a certificate of appealability.


Accordingly,

IT IS HEREBY ORDERED that Judge Blanton's Report and Recommendation filed on January 16, 2013 is adopted and sustained in its entirety.

IT IS FURTHER ORDERED that Petitioner Thomas L. Umphrey's Petition for Writ of Habeas Corpus is **DENIED**.

IT IS FURTHER ORDERED that the Court will not issue a certificate of appealability.

A separate Judgment in accordance with this Memorandum and Order is entered this same date.



RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE

Dated this 5th day of March, 2013.